

Craig S. Friedman (CF-1988)  
Matthew W. Lampe (*pro hac vice* application pending)  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MARIA JACKSON,  
  
Plaintiff,  
  
-against-  
  
THE SCOTTS COMPANY  
  
Defendant.

08 Civ. 1064 (LAK)

**DECLARATION OF  
CARMEN G. WEST IN  
SUPPORT OF FRCP 12(b)(6)  
MOTION TO DISMISS**

CARMEN G. WEST declares as follows:

1. I am Director, Compliance and Integration, for Defendant The Scotts Company LLC ("Defendant" or "Scotts"). I am fully familiar with the specific matters set forth herein. I submit this declaration in support of Defendant's motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6).
2. My employment with Scotts began in October 2000 and I have held various managerial positions with Scotts since that time, including Manager, Human Resources Shared Services; Manager, Human Resources Information Systems; and Manager, Human Resources.
3. Attached as Exhibit 1 is a copy of the job description for the Sales Merchandising

Manager position held by Plaintiff Maria Jackson. The attached job description was in effect in 2004.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 7<sup>th</sup> day of March, 2008.  
Marysville, Ohio

  
CARMEN G. WEST

# **EXHIBIT 1**

**THE SCOTTS COMPANY  
JOB DESCRIPTION**

<b>Job Title: Sales Merchandising Manager</b>	<b>Date: June 5, 2000</b>
<b>Department: Field Sales</b>	<b>Band: D</b>
<b>Division: North American Sales</b>	<b>Track: Indiv. Contrib.</b>
<b>Title of Supervisor: District Manager</b>	<b>FLSA Status: <input checked="" type="checkbox"/>X ___N</b>

**General Summary**

Responsible for store level product orders to maximize sales and move-through for assigned Scotts product lines and account stores. Provides store employee training, assistance with store sets, consumer counseling and other account and store assignments as assigned by the District Manager or Regional Sales Director.

**Key Work Performed**

	<b><u>% of Time</u></b>
Takes current inventories and sells product to fill plan-o-grammed shelf space. Sells off-shelf displays and product to fill them. Enters orders and/or prepares recommended orders for store or department managers	60%
Plans and directs merchandiser assignments for assigned Scotts products to include restocking shelves, racks and displays, cleaning and facing product, repairing or removing damaged items, etc.	15%
Develops store level seasonal shelf set and inventory display plan to meet current and historical trends, ad schedules, etc. for all assigned Scotts product lines.	10%
Sells use of Scotts point of purchase materials and installs and maintains them.	5%
Completes all required reports and administrative tasks in a timely and accurate manner	5%
Administers product knowledge and training for store employees and the weekend consumer counseling sessions.	5%

### **Complexity**

A. Most difficult or most complex task or project performed by the jobholder:

Understanding the ordering procedures for the various Scotts product lines and distribution channels for segments of product lines as they apply to each account, understanding each account's ad schedules and promotional programs and implementing orders at the store level.

Approximate time necessary to complete this task or project from start to completion:

A complete sales year is required to see how this changes for different products during the year and to learn how to implement orders through relationships with each store/department manager.

B. Degree to which responsibilities require original thinking (provide examples of activities):

The situation in each account and at each store requires a little different approach to selling reorders, displays and use of POP depending on relationships formed with key store employees and their mode of operation.

### **Supervision Exercised**

A. Number and titles of positions directly supervised:

- Merchandisers, Temporary & Part-Time (0 – 10)

B. Number and titles of positions indirectly supervised:

- Weekend Counselors (0 – 10)

### **Minimum Requirements**

A. Education:

- College degree or equivalent practical experience in the field of Business and/or Marketing

B. Experience:

- Two years experience selling consumer products, inventory, and/or promotional displays to retail chain store and department managers.
- Supervisory experience strongly preferred.

C. Knowledge:

- A thorough understanding of the sales and marketing sector and the role of sales and merchandising in our retail outlets.

- Knowledge of processes to prioritize a workload within a fast-paced, high priority environment.

D. Skills and Abilities:

- Excellent verbal and written communication and presentation skills.
- Strong computer skills.
- Ability to handle conflict.
- Strong analytical, creative thinking, and accounting skills.
- Ability to lift 60 lbs.
- Ability to regularly travel overnight by automobile or airline.

**Signatures**

Immediate Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

Next Level Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

Human Resources: \_\_\_\_\_ Date: \_\_\_\_\_